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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

United States District Court  
Southern District of Texas  
FILED

AUG - 6 2000

Michael N. Milby  
Clerk of Court

RAQUEL O. RODRIGUEZ, as legal guardian  
of JOSE L. RODRIGUEZ,

Plaintiff,

VS.

RIDDELL, INC.; and ALL AMERICAN  
SPORTS CORPORATION, d/b/a  
RIDDELL/ALL AMERICAN,

Defendants.

CIVIL ACTION NO. B-96-177

**MOTION FOR ORDER TO SHOW CAUSE RE: CONTEMPT**

**COMES NOW** the Plaintiff, by and through her counsel of record, and respectfully requests that the Court issue an order to show cause why Defendants and their insurer, Illinois National Insurance Company, should not be held in contempt for their failure to comply with the Court's Order Approving Settlement entered June 19, 2001.<sup>1</sup> *Ex parte Robinson*, 86 U.S. 505, 22 L. Ed. 205 (1874); *Dow Chem. Co. v. Chemical Cleaning, Inc.*, (CA 5th 1970), 434 F.2d 1212, cert. denied, 91 S. Ct. 1621, 402 U.S. 945, 29 L. Ed. 2d 113.

This Motion is supported by the following facts:

1. Pursuant to this Court's June 19, 2001 Order Approving Settlement, Defendants and their insurer, Illinois National Insurance Company, were ordered "on or before August 3, 2001" to

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<sup>1</sup> The June 19, 2001 Order Approving Settlement was filed under seal. A true and correct copy of said Order, redacted of its financial terms, is attached as Exhibit A to this Motion.



make "overnight delivery, by Federal Express courier" of two settlement checks to The Markam Group, Inc. and to Allstate Life Insurance Company, respectively, in amounts specified in the Order; and

2. As of August 4, 2001, Defendants and their insurer failed to make payment as required by the June 19, 2001 Order Approving Settlement.

**WHEREFORE**, Plaintiff respectfully requests that the Defendants and their insurer be ordered as follows:

1. To appear before this Court and offer good cause why they should not be held in contempt for the violation of the Court's June 19, 2001 Order;

2. That they jointly and severally be required to pay interest at the legally applicable rate for the total amount of the settlement consideration, from and after August 4, 2001, until said sum is paid in full in compliance with the Court's June 19, 2001 Order Approving Settlement; and

3. That they be required to pay attorney's fees and reasonable expenses incurred in the preparation and presentation of the present Motion, attendance at the hearing on Order to Show Cause, and all actions necessary to secure compliance with the Court's June 19, 2001 Order.

**DATED** this 4<sup>th</sup> day of August, 2001.

EVANS, KEANE LLP

By 

**Rex Blackburn, ISB #3170**

**Paul J. Augustine, ISB #4608**

**Evans, Keane LLP**

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**J. Arnold Aguilar, TSB #00936270**  
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1200 Central Boulevard  
Artemis Square, Suite H-2  
Brownsville, Texas 78520  
Telephone: (956) 504-1100  
Facsimile: (956) 504-1408

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 4<sup>th</sup> day of August, 2001, a true and correct copy of the foregoing document was served by first-class mail, postage prepaid, and addressed to; by fax transmission to; by overnight delivery to; or by personally delivering to or leaving with a person in charge of the office as indicated below:

Robert B. Summers  
ROBERT B. SUMMERS & ASSOCIATES  
714 Ford Street  
Post Office Box 398  
Llano, TX 78643

☒ U.S. Mail  
☒ Facsimile (915) 248-0110  
☐ Overnight Delivery  
☐ Messenger Delivery

Mark T. Curry  
HUGHES, WATTERS & ASKANASE, LLP  
1415 Louisiana, 37th Floor  
Houston, Texas 77002

☒ U.S. Mail  
☒ Facsimile (713) 759-6834  
☐ Overnight Delivery  
☐ Messenger Delivery



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REX BLACKBURN



# EXHIBIT A

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

United States District Court  
Southern District of Texas  
FILED

JUN 19 2001

Michael N. Milby  
Clerk of Court

RAQUEL O. RODRIGUEZ, as legal guardian  
of JOSE L. RODRIGUEZ,

Plaintiff,

vs.

RIDDELL, INC.; and ALL AMERICAN  
SPORTS CORPORATION, d/b/a  
RIDDELL/ALL AMERICAN,

Defendants.

Case No. B-96-cv-177

FILED UNDER SEAL

ORDER APPROVING SETTLEMENT

On the 19th day of June, 2001, this cause came for hearing on the Petition for Approval of Settlement, filed by Petitioners on June 19, 2001.


After hearing the evidence in support of the Petition and the argument of counsel, and the Court being fully advised in the premises, the Petition is GRANTED.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** as follows:

1. The Court finds that the settlement is in all particulars just, reasonable, equitable and in the best interests of Jose L. Rodriguez, an incompetent, and all parties to this action.
2. Contemporaneously herewith, the Court has considered the Application to Establish the Jose L. Rodriguez Trust ("Rodriguez Trust") and, good cause existing therefor, has entered this date the Decree of Court Establishing the Jose L. Rodriguez Trust.

TRUE COPY I CERTIFY  
ATTEST:

MICHAEL N. MILBY, CLERK

By  Deputy Clerk



3. The parties to the Full and Final Compromise Settlement, Release and Indemnity Agreement ("Settlement Agreement"; Exhibit A to Petition for Approval of Settlement) are forthwith authorized and directed to execute same. The terms of the Settlement Agreement are incorporated herein and shall be binding upon and inure to the benefit of the parties thereto.

4. On or before August 3, 2001, the Defendants and their Insurer, Illinois National Insurance Company, shall pay the total present-value sum of \_\_\_\_\_ as follows:

(i) overnight delivery, by Federal Express courier, of a check payable to "The Markam Group, Inc., P.S., IOLTA Trust Account" in the amount of \_\_\_\_\_, and

(ii) overnight delivery, by Federal Express courier, of a check payable to Allstate Life Insurance Company in the amount of \_\_\_\_\_ for the purchase of an annuity policy from Allstate Life Insurance Company, the owner of which, Allstate Assignment Company, shall make periodic payments according to the schedule specified in the Settlement Agreement.

5. The Markam Group, Inc., P.S., and Mark Kamitomo are hereby authorized and directed, upon receipt of the monies specified in the preceding paragraph, to forthwith distribute said funds as follows:

(i) to The Markam Group, Inc., P.S., Evans, Keane LLP, J. Arnold Aguilar, and Wyatt & Wyatt, P.C., the total sum of \_\_\_\_\_ according to the agreements of said counsel for the distribution of attorney fees;

(ii) to the following counsel for Plaintiff, as reimbursement for litigation expenses necessarily and actually incurred or advanced by said counsel in the prosecution of this matter, the following amounts:

Mark D. Kamitomo/The Markam Group, Inc., P.S.  
Evans, Keane LLP  
J. Arnold Aguilar  
Wyatt & Wyatt, P.C.

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TOTAL

(iii) to National Accident Insurance Underwriters, in satisfaction in its entirety of its subrogated interest and any claim for attorney fees, litigation expenses or any other claims arising from the settlement, the sum of \_\_\_\_\_ ;

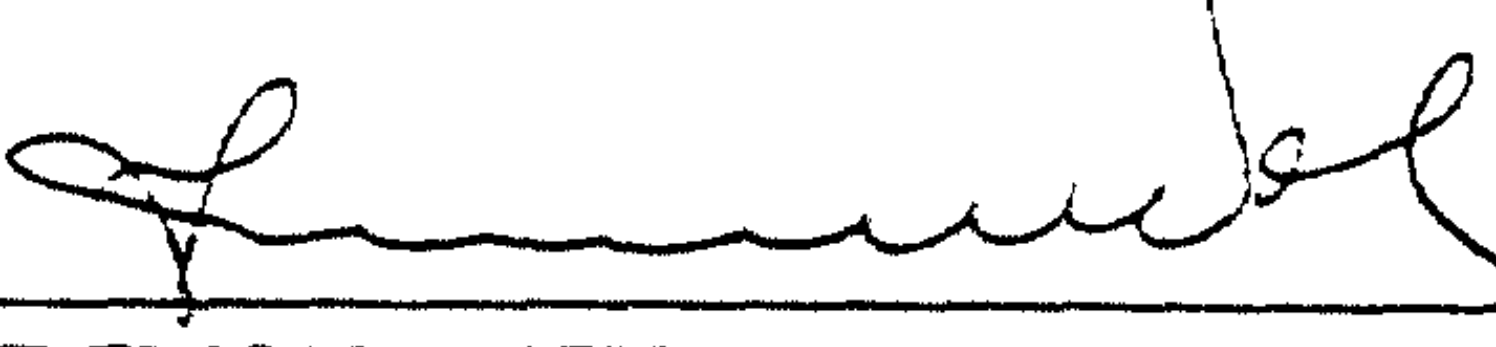
(iv) to the Texas Health and Human Services Commission, State Medicaid Director, such sums as are necessary to negotiate and settle its lien arising from the payment of Medicaid benefits on behalf of Jose L. Rodriguez;

(v) to the Rodriguez Trust, such sums as remain after payment of the foregoing.

6. Defendants and their Insurer, Illinois National Insurance Company, shall pay all reasonable fees and expenses of the Attorney ad Litem, Roman D. Esparza, which are unpaid as of the date of this Order.

7. The financial terms of this settlement, by agreement of the parties, are to remain confidential, and this Order is filed under seal.

DATED this 19<sup>th</sup> day of June, 2001.

  
FILEMON B. VELA  
U.S. DISTRICT JUDGE